Supreme Court, U.S.
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IN THE

Supreme Court of the United States

GEORGE DALTON BROOKS; CORWIN HENRY MEYER; RICHARD WELSH; MONROE ASHWORTH, III; MARTIN AMON; ET AL,
PETITIONERS

v.

UNITED STATES OF AMERICA; JOHN SNOW, SECRETARY, DEPARTMENT OF TREASURY; MARK W. EVERSON, COMMISSIONER OF THE INTERNAL REVENUE SERVICE,
RESPONDENTS

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

I. Did the Secretary of the Treasury violate separation of powers principles when in contravention of The 1998 Tax Reform Act and a specific directive by Congress, he refused to promulgate regulations authorizing the IRS to accept offers-in-compromise for high interest amounts accumulated as the result of long delays by the IRS in determining taxpayer liability?

II. Should taxpayers who have paid the IRS in interest five times their taxes after the IRS delayed 17 years to determine their tax liability be forced to pursue a futile administrative remedy with the IRS for abatement or refund where the Secretary of the Treasury has *already* refused to promulgate regulations reflecting Congress' intent that the IRS accept offers-in-compromise for interest accumulated because of its long delay in determining tax liability, where the IRS has *already* assessed or collected interest from these taxpayers in full in violation of Congress' directive to accept offers in compromise for a lesser amount and where in a "form" letter it has *already* denied the taxpayers any conceivable relief to which they would be entitled in an administrative proceeding?

III. Does the federal district court have jurisdiction to hear the due process claims of innocent limited partners of an agricultural-based partnership who seek abatement or refund of interest payments wrongfully assessed or collected by the IRS after it delayed 17 years to determine

their taxes, refused to implement Congress' directive in The Tax Reform Act that it compromise interest for a lesser amount than due and then peremptorily denied in "form" letters the right of these innocent limited partners to seek an abatement or refund?

PARTIES TO THE PROCEEDINGS

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CITATIONS OF OPINIONS AND ORDERS.

The unpublished *per curiam* opinion of the Court of Appeals for the Fifth Circuit in *George Dalton Brooks et al. v. United States et al.*, C.A. No. 04-20346, filed March 21, 2005, affirming the District Court's judgment of dismissal, is set forth in the Appendix hereto(App. 1-2).

The published Memorandum and Order of the United States District Court for the Southern District of Texas, Houston Division, in *George Dalton Brooks et al. v. John Snow, Secretary of the Treasury et al.*, 313 F. Supp.2d 654 (Civil Action No. H-03-0259), dated February 12, 2004, and entered February 13, 2004, dismissing the Petitioners' complaint, is set forth in the Appendix hereto(App. 3-17).

Sample Notice of Increased Tax by the IRS sent to one of the Petitioners, dated August 12, 2002, is set forth in the Appendix hereto(App. 18-19).

Sample "Form" letter from IRS Field Director, Lynne Walsh, Holtsville, NY, to one of the Petitioners, dated September 5, 2002, denying any claim for abatement or refund of interest charged by the IRS as a result of its 17-year delay in establishing tax liability("the Selesky Letter")(App. 20-21).

BASIS FOR JURISDICTION IN THIS COURT.

The judgment of the United States Court of Appeals for the Fifth Circuit affirming the District Court judgment of dismissal was entered on March 21, 2005(App. 1).